IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.10142 OF 2004

Hanuman Nagari Sahakari Pat
Sanstha Maryadeet, Sangli. ...Petitioner.
Vs.
Badrinath Nandkishor Laddha & Ors ...Respondents.
....
Mr. S. S. Patwardhan for the Petitioner.
Mr.Milind Deshmukh i/b. Mr.Pratap Patil for Respondent No.3.
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CORAM : DR.D.Y.CHANDRACHUD, J.

April 26, 2005.

P.C.:

Rule, by consent returnable forthwith. Counsel appearing on behalf of the Respondents waives service. By consent of Counsel and at their request taken up for hearing and final disposal.

2. The Petitioner is a Co-operative Credit Society, registered under the provisions of the Maharashtra Co-operative Societies' Act, 1960. The First Respondent and the Second Respondent are respectively a former Chairman and a former

Manager of the Society. In 1998, the Petitioner purchased Indira Vikas Patras of the value of Rs.11 lakhs upon a resolution of the Managing Committee. The price of the securities was paid by a cheque. The allegation is that the First Respondent misused his office and the securities in the form of Indira Vikas Patras of the value of Rs.11 lakhs for raising a personal loan from the Third Respondent. The Petitioner filed a case before the Co-operative Court and on 27th August 2004, the Co-operative Court allowed the application for interim injunction. The order of the Co-operative Court has been set aside in appeal. When this petition was taken up for admission, an order of status quo was passed on 22nd December 2004.

3. The Co-operative Appellate Court has held that the ownership of the Petitioner in respect of the securities is prima facie established. The Co-operative Appellate Court, however, while vacating the injunction was of the view that the securities in this case were freely transferable and that the Third Respondent did not have notice of the ownership of the Petitioner. The

question as to whether the Third Respondent had, in fact, any notice in the matter is something which will fall for consideration on the basis of evidence which will be adduced at the trial of the main dispute. At this stage, once the Co-operative Appellate Court concurs with the findings of the Co-operative Court that the ownership of the Petitioner had been established, it was, in my view, not appropriate to vacate the order of injunction. The dispute is pending trial. In these proceedings, an order of status quo operates since 22nd December 2004. In these circumstances, the petition is disposed of by quashing and setting aside the impugned order dated 15th October 2004 of the Co-operative Appellate Court. The parties shall maintain the status quo in terms of the order dated 22nd December 2004.

4. The Co-operative Court is requested to expedite the disposal of the dispute and to endeavour to do so on or before 31st October 2005, subject to the exigencies of its own work.

5. The Petition is accordingly disposed of.

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